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Attorneys for Defendant,
CAPITAL ONE BANK (USA), N.A.,
erroneously sued as
“Capital One Bank USA, N.A.”

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA – LAS VEGAS

BRIAN A. WALSH,
Plaintiff,

v.

CAPITAL ONE BANK USA, N.A.,
CHASE BANK USA, N.A.,
SPECIALIZED LOAN SERVICING,
LLC, and EQUIFAX INFORMATION
SERVICES, LLC,

Defendants.

Case No. 2:15-cv-02349-JAD-NJK

*Assigned to Judge Jennifer A.
Dorsey*

*Referred to Magistrate Judge Nancy
J. Koppe*

**STIPULATION TO EXTEND
TIME TO RESPOND TO
COMPLAINT**

**(SECOND REQUEST – SAME
RELIEF SOUGHT AS FIRST
REQUEST)**

*[[Proposed] Order lodged
concurrently herewith]*

Complaint Filed: August 6, 2015
Trial Date: TBA

1 Plaintiff Brian A. Walsh (“Plaintiff”), by and through his counsel of record,
 2 Michael Kind, and Defendant Capital One Bank (USA), N.A., erroneously named as
 3 “Capital One” (“Capital One”), by and through its counsel of record, Brandon C.
 4 Fernald, hereby submit this stipulation to extend Capital One’s time to file a
 5 responsive pleading to Plaintiff’s Complaint by thirty (30) days, as follows:

6 **WHEREAS:**

7 1. Plaintiff filed the Complaint in this matter in state court (specifically, the
 8 Eighth Judicial District of Nevada) on August 6, 2015, and effectuated service of his
 9 Summons and Complaint on Capital One on November 19, 2015;

10 2. The parties filed a stipulation in this Court on December 16, 2015, in
 11 which they agreed to extend Capital One’s time to respond to the Complaint by 30
 12 days, to and including January 15, 2015;

13 3. The Court denied the stipulation *without prejudice* on the grounds that it
 14 had been filed after Capital One’s deadline to respond to the Complaint, and therefore
 15 required a showing of excusable neglect;

16 4. Upon receipt of the Order, the parties agreed to file a new stipulation that
 17 more fully set forth the facts showing that the first stipulation was timely filed;

18 5. Capital One’s responsive pleading deadline in this Court was December
 19 16, 2015, the date the stipulation was filed, as follows:

- 20 a. In the state-court proceeding, Capital One had 20 days from service to
- 21 respond to the complaint, making its deadline December 9, 2015;
- 22 b. On December 9, 2015, Capital One removed the action to this Court
- 23 (*see* Docket No. 1);
- 24 c. Under Federal Rule of Civil Procedure 81(c)(2), upon removal “[a]
- 25 defendant who did not answer before removal must answer or present
- 26 other defenses or objections under these rules within *the longest of*
- 27 *these periods*: (A) 21 days after receiving—through service or
- 28 otherwise—a copy of the initial pleading stating the claim for relief;

(B) 21 days after being served with the summons for an initial pleading on file at the time of service; or (C) 7 days after the notice of removal is filed.”

d. In this instance, the longest of the three periods in Rule 81(a)(c) is “7 days after the notice of removal was filed”;

e. Accordingly, Capital One’s deadline to respond to the Complaint in this Court was seven days after the December 9, 2015 removal, i.e. December 16, 2015;

6. Accordingly, the Parties’ December 16, 2015 stipulation was timely;

7. The parties agree that a brief extension of time for Capital One to file its responsive pleading to the Complaint would benefit both Parties because it will allow them to gather additional facts and information while continuing to devote their resources to exploring the potential for early resolution of this matter before incurring further fees and costs;

8. Capital One and Plaintiff have agreed to extend Capital One’s deadline to respond by 30 days from the federal-court responsive pleading deadline (i.e. December 16, 2015), to and including January 15, 2016;

NOW, THEREFORE, IT IS HEREBY STIPULATED THAT:

CAPITAL ONE will file its responsive pleading to Plaintiff’s Complaint on or before January 15, 2016.

IT IS SO STIPULATED.

DATED: December 22, 2015

KAZEROUNI LAW GROUP, APC

By: /s/ Michael Kind

MICHAEL KIND
Attorneys for Plaintiff,
TOMMY D. DAVIS

1
2 DATED: December 22, 2015

FERNALD LAW GROUP LLP

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4 By: /s/ Brandon C. Fernald
5 BRANDON C. FERNALD
6 Attorneys for Defendant,
7 CAPITAL ONE BANK (USA),
8 N.A., Erroneously Named As
9 "Capital One"

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11 IT IS SO ORDERED.
12 Dated: December 28, 2015

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15 United States Magistrate Judge
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